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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,518

04/15/2004

James McGarry

061026-0371

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10/05/2006

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EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/825,518	MCGARRY, JAMES	
	Examiner	Art Unit	
	Michelle (Shelley) Clement	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 28-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 28-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 7/12/06.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 27 recites the limitations "the locking member" and "the selector switch". There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-13, 16, and 17 rejected under 35 U.S.C. 102(e) as being anticipated by Kiesel et al. (US Patent Application Publication # 2005/0011099). Kiesel et al. discloses a pistol with a firing pin locking mechanism comprising a housing defining a chamber to hold a cartridge; a firing pin disposed in the housing and movable to strike a chambered cartridge; a blocking member that engages and prevents the firing pin from moving to strike the cartridge; and a stopping member operable to maintain the blocking member into engagement with the firing pin. Wherein the blocking member is movable from a first position in which the blocking member engages the firing pin to a second position in which the blocking member does not engage the firing pin, the stopping member operable to engage and prevent the blocking member movement from the first position to the second position. Wherein the stopping member is selectively movable by a user of the pistol. Further comprising a movable selector switch connected to the stopping member that allows the pistol user to manually move the stopping member into and out of engagement with the blocking member (§ 0034). The blocking member is vertically movable and further comprises a top surface, and the stopping member further comprises a bottom surface, the bottom surface of the stopping member movable to engage the top surface of the blocking member when the blocking member is in the first position to prevent vertical movement of the blocking member. Further comprising a biasing member to bias the blocking member into the first position. Wherein the blocking member comprises a vertically oriented shaft with a laterally protruding flange, the flange movable into and out of engagement with a top surface of the firing pin. Wherein the flange further comprises a vertical surface that is engageable with a

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protrusion extending vertically upwardly from the top surface of the firing pin. Further comprising a rotatable locking member operably associated with the stopping member, the locking member rotationally movable from an unlocked position to a locked position in which the stopping member is locked into engagement with the blocking member. The stopping member is positioned above the blocking member in the activated position to obstruct possible vertical movement of the blocking member from the first position. The stopping member is movable into a second position by the user of the pistol in which the stopping member is withdrawn from above the blocking member and does not obstruct the vertical movement of the blocking member from the first position. The stopping member is interspersed between the blocking member and the housing when the stopping member is in the activated position. The housing is a reciprocating slide slidably mounted on a frame.

8. Claims 1-4, 6, 10-13, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Dornaus (US Patent # 5,245,776). Dornaus discloses a pistol with a firing pin locking mechanism comprising a housing defining a chamber to hold a cartridge; a firing pin disposed in the housing and movable to strike a chambered cartridge; a blocking member that engages and prevents the firing pin from moving to strike the cartridge; and a stopping member operable to maintain the blocking member into engagement with the firing pin. Wherein the blocking member is movable from a first position in which the blocking member engages the firing pin to a second position in which the blocking member does not engage the firing pin, the stopping member operable to engage and prevent the blocking member movement from the first position to the second position. Wherein the stopping member is selectively movable by a user of the pistol. Further comprising a movable selector switch connected to the stopping member

that allows the pistol user to manually move the stopping member into and out of engagement with the blocking member. Further comprising a biasing member to bias the blocking member into the first position. The blocking member is movable between vertical positions. The stopping member is positioned above the blocking member in the activated position to obstruct possible vertical movement of the blocking member. The stopping member is movable into the second position by a user of the pistol. The stopping member is interspersed between the blocking member and the housing when the stopping member is in the activated position. The housing is a reciprocating slide. Further comprising a first manually movable selector switch connected to the stopping member and controlling movement of the stopping member. Wherein the switch is rotatably mounted in the housing and movable in a rotation direction to control the position of the stopping member. The switch is a thumb lever.

9. Claims 1-4, 9, 17-19, 21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Perlotto (US Patent # 3,882,622). Perlotto discloses a pistol with a firing pin locking mechanism comprising a housing defining a chamber to hold a cartridge; a firing pin disposed in the housing and movable to strike a chambered cartridge; a blocking member that engages and prevents the firing pin from moving to strike the cartridge; and a stopping member operable to maintain the blocking member into engagement with the firing pin. Wherein the blocking member is movable from a first position in which the blocking member engages the firing pin to a second position in which the blocking member does not engage the firing pin, the stopping member operable to engage and prevent the blocking member movement from the first position to the second position. Wherein the stopping member is selectively movable by a user of the pistol. Further comprising a movable selector switch connected to the stopping member

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that allows the pistol user to manually move the stopping member into and out of engagement with the blocking member. Further comprising a rotatable locking member operably associated with the stopping member, the locking member rotationally movable from an unlocked position to a locked position in which the stopping member is locked into engagement with the blocking member. A manually movable selector switch connected to the stopping member and controlling movement of the stopping member. The switch is rotatably mounted in the housing and movable in a rotation direction to control the position of the stopping member. The stopping member is pivotally connected to the switch and axially movable in a longitudinal direction by rotating the switch. The switch is a thumb lever. A movable locking member engages and locks the selector switch in at least one position in which the stopping member simultaneously is in the second activated position. The locking member is a lock pin rotatable mounted to the selector switch and configured to receive a cooperatively configured key used to turn the locking member. The lock pin includes a cylindrical external sidewall to engage a mating concavity formed in the selector switch, which stoppingly receives the lock pin sidewalk to lock the switch in position.

10. Claims 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruger (US Patent # 5,426,881). Ruger discloses a pistol with a firing pin locking mechanism comprising a housing defining a chamber to hold a cartridge; a firing pin disposed in the housing and movable to strike a chambered cartridge; a blocking member that engages and prevents the firing pin from moving to strike the cartridge; and a stopping member operable to maintain the blocking member into engagement with the firing pin. Wherein the blocking member is movable from a first position in which the blocking member engages the firing pin to a second position in which the blocking member does not engage the firing pin, the stopping member operable to engage and

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prevent the blocking member movement from the first position to the second position. Further comprising a movable selector switch connected to the stopping member that allows the pistol user to manually move the stopping member into and out of engagement with the blocking member. The switch is rotatably mounted in the housing and movable in a rotational direction to control the position of the stopping member. The stopping member is pivotally connected to the switch and axially movable in a longitudinal direction by rotating the switch. The switch further comprises a tenon pin on which the stopping member is pivotally mounted. The switch is a thumb-lever.

11. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Beretta (US Patent # 4,768,302). Beretta discloses a pistol with a firing pin locking mechanism comprising a frame a housing attached to the frame, the housing defining a longitudinal axis and a chamber to hold a cartridge, a firing pin disposed in the housing and longitudinally movable in a forward and rearward direction at least a portion of the firing pin protruding outwards from the rear of the housing in one position, a movable hammer pivotally mounted in the frame and positioned to physically contact the protruding firing pin to discharge the pistol, a rotary selector switch operably engaged with the firing pin and movable between at least first and second positions, the switch when moved from the first position to the second position simultaneously retracting the firing pin within the housing so that the hammer cannot contact the firing pin and discharge the pistol and a movable locking member that in at least one position engages and holds the switch in the second position so that the hammer cannot contact the firing pin.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perlotto as applied to claims 17-19 above, and further in view of Lundy (US Patent # 6,389,728). Although Perlotto does not expressly disclose a second selector switch rotatably mounted in the housing and mechanically coupled to the first switch such that turning one of the switches concomitantly turns the other switch in the same rotation direction, the stopping member being movable in position by turning either the first switch or second switch, Lundy does. Lundy teaches a safety mechanism for a firearm having a switch located on both sides of the firearm so that a person would be able to use the safety with either the right or the left hand. Lundy and Perlotto are analogous art because they are from the same field of endeavor: firearm safeties. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the right and left side switches as suggested by Lundy with the safety device as disclosed by Perlotto, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art and the second selector switch would allow right or left hand operation of the safety. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

14. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dornaus as applied to claim 10 and 16 above, and further in view of Perlotto (US Patent # 3,882,622). Although Dornaus does not expressly disclose the pistol wherein a locking member is a lock pin

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rotatably mounted in a selector switch and configured to receive a cooperatively configured key used to turn the locking member, Perlotto does. Perlotto teaches a locking mechanism for a firearm for locking a selector switch in order to render the firearm more secure. Perlotto and Dornaus are analogous art because they are from the same field of endeavor: firearm safeties. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the locking selector switch as suggested by Perlotto with the safety device as disclosed by Dornaus. The suggestion/motivation for doing so would have been to obtain a firearm that could not be used without a key thereby rendering it safer.

Conclusion

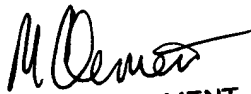
15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELLE CLEMENT
PRIMARY EXAMINER